

## REMARKS/ARGUMENTS

### **In the Claims:**

Claims 22, 24-32, 34 and 36-37 are currently amended. Applicant respectfully submits that no new subject matter has been introduced.

Claim 33 is cancelled to avoid duplication with currently amended claim 32.

No new claims are added.

Claims 22-32, and 34-37 remain pending.

### ***Claims 28-31 and 34: Formal Amendments***

The Applicant has amended claims 28-31 and 34 as shown above to correct minor typographical errors and formal issues. The Applicant respectfully submits that these amendments do not introduce any new subject matter.

### ***Independent claim 22: Rejection under 35 U.S.C. §102(b)***

The Examiner has rejected claim 22 as being anticipated by United States patent no. 5,957,819 to Cortesi (hereinafter referred to as "Cortesi"). In response, Applicant respectfully traverses this rejection as being overcome.

Claim 22 as presently amended reads:

22. A method of exercising the human body using a natural gum rubber band formed in a continuous loop comprising the steps of:

- (a) positioning said natural gum rubber band on at least two points of contact, wherein at least one of said points of contact comprises a point of contact on a part of a user's body;
- (b) a user applying tension to said natural gum rubber band between said points of contact;
- (c) said user releasing tension from said natural gum rubber band between said points of contact such that said natural gum rubber band returns to its original length.

The Applicant respectfully submits that Cortesi discloses a golf exercise device 10 comprising one or more elastic bands 86' is in contact with a support leg 38 of the device 10 and the club head 18, or shaft 56 near the club head, of a golf club 20 (column 6 lines 3-13). A golfer may grip the handle of the golf club 20, which is located at the opposite end of the club from the club head, and by pulling on the handle of the club move the club head 18 away from the golf exercise device 10 (column 6 lines 34-38).

The Applicant respectfully submits that Cortesi does not disclose, for example, positioning said natural gum rubber band on at least two points of contact, wherein at least one of the points of contact comprises a point of contact on a part of the user's body, as recited in claim 22, because the elastic band 86 of Cortesi is not in contact with a part of the golfer's body as disclosed in Cortesi. Consequently, the Applicant respectfully submits that Cortesi does not completely describe the features recited in claim 22 and cannot anticipate the invention of claim 22. Thus, Applicant respectfully submits that claim 22 is in compliance with 35 U.S.C. §102 and respectfully requests the rejection be withdrawn.

***Dependent claims 23-25, 34 and 37: Rejection under 35 U.S.C. §102(b)***

The Examiner has rejected claims 22-25, 34 and 37 as being anticipated by Cortesi. In response, Applicant respectfully traverses this rejection as being overcome. Applicant respectfully submits that claims 22-25, 34 and 37 should be allowable under 35 U.S.C. §102 due to their dependence on claim 22, which has previously been shown to be in compliance with 35 U.S.C. §102, and due to the additional subject matter recited therein. Thus, Applicant respectfully requests the rejection be withdrawn.

***Dependent claims 25: Rejection under 35 U.S.C. §103(a)***

The Examiner has rejected claim 25 as being anticipated by Cortesi in view of US patent no. 6,872,175 to Lin (hereinafter referred to as "Lin"). In response, the Applicant respectfully traverses this rejection and respectfully requests the rejection be withdrawn.

The Applicant respectfully submits that Lin discloses a training device comprising long and short holding members 31 and 32 made of fixed length rope bodies 311 and 321 which are not elastic (see column 3 lines 2-7). The Applicant respectfully submits that Cortesi discloses a golf exercise device 10 as described above.

The Applicant respectfully submits that Cortesi and Lin, taken alone or in combination, do not disclose nor suggest, for example, positioning said natural gum rubber band on at least two points of contact, wherein at least one of the points of contact comprises a point of contact on a part of the user's body, as recited in claim 22 (claim 25 is dependent on claim 22), because the elastic band 86 of Cortesi is not in contact with a part of the golfer's body as disclosed in Cortesi, and because Lin does not disclose a rubber or elastic band of any type. Further, the Applicant respectfully submits that Cortesi and Lin, taken alone or in combination, do not disclose nor suggest, for example, a plurality of natural gum rubber bands of different lengths as disclosed in claim 25, because the holding members 31 and 32 of Lin are of fixed length and made of rope.

Moreover, Applicant respectfully submits that no modification of the golf exercise device of Cortesi on the basis of the disclosure of Lin which would be obvious to one of ordinary skill in the art would result in or suggest the invention of claim 25. Thus, Applicant respectfully submits that claim 25 is in compliance with 35 U.S.C. §103 and respectfully requests the rejection be withdrawn.

***Independent claim 22 and dependent claims 26-30, 34: Rejection under 35 U.S.C. § 102(b)***

The Examiner has rejected independent claim 22 and dependent claims 26-30 and 34 as being

anticipated by United States patent no. 5,945,060 to Williams (hereinafter referred to as "Williams"). In response, Applicant respectfully traverses this rejection as being overcome.

The Applicant respectfully submits that Williams discloses a method for making an exercise band device made out of a synthetic thermoplastic elastomer (column 2 lines 28-38). The Applicant respectfully submits that Williams further discloses a method for forming a roughened or textured surface on the thermoplastic elastomeric band taught by Williams by embossing or chemical roughening treatment during production of the thermoplastic elastomeric band (column 3 lines 10-17).

The Applicant respectfully submits that Williams does not disclose, for example, a method of exercising the human body using a natural gum rubber band formed in a continuous loop, as recited in claim 22, because the thermoplastic elastomer exercise band taught by Williams is thermoplastically formed from a synthetic thermoplastic elastomer material, in distinct contrast to the use of a natural gum rubber material in a natural gum rubber band, from which the disclosure of Williams teaches away (column 1 line 10 to column 2 line 13). Consequently, the Applicant respectfully submits that Williams does not completely describe the features recited in claim 22 and cannot anticipate the invention of claim 22. Thus, Applicant respectfully submits that claim 22 is in compliance with 35 U.S.C. §102 and respectfully requests the rejection be withdrawn.

The Examiner has also rejected dependent claims 26-30 and 34, which depend from claim 22, as being anticipated by Williams. Applicant respectfully submits that claims 26-30 and 34 should be allowable under 35 U.S.C. §102 due to their dependence on claim 22, which has previously been shown to be in compliance with 35 U.S.C. §102, and due to the additional subject matter recited therein. Thus, Applicant respectfully requests the rejection be withdrawn.

***Dependent claims 31-36: Rejection under 35 U.S.C. §102(b)***

The Examiner has rejected claims 31-36 as being anticipated by US patent no. 5,352,174 to Mason et al. (hereinafter referred to as "Mason"). In response, Applicant respectfully traverses this rejection as being overcome.

The Applicant respectfully submits that Mason discloses an exercise device comprising a loop of elastomeric tubing 28 with a separate rigid tubular handle 30 molded from plastic attached to the elastomeric tubing 28, wherein the separate rigid handle 30 is grasped by a user (column 3 line 59 to column 4 line 9 and Fig. 2). Mason also discloses a door strap loop 22 (column 3 lines 50-58 and Fig. 1) made from an inelastic material such as high-strength synthetic fabric for use with the elastomeric tubing exercise device by connection to the exercise device by a connector clip 36 (column 4 lines 55-65 and Figs. 6 and 8).

The Applicant respectfully submits that Mason does not disclose, for example, a method of exercising the human body using a natural gum rubber band formed in a continuous loop comprising the step of: positioning said natural gum rubber band on at least two points of contact, wherein at least one of the points of contact comprises a point of contact on a part of the user's body, as recited in claim 22, because the elastomeric tubing 28 of Mason is not in contact with a part of the user's body as disclosed in Mason. Instead, as disclosed in Mason, the user's body contacts the separate rigid handle 30, or alternatively the door strap loop 22. Further, the Applicant respectfully submits that the elastomeric tubing 28 taught by Mason is not interchangeable with the natural gum rubber band recited in claim 22. This is because the relatively thin and wide profile of the natural gum rubber band as taught in the present application (see page 7 lines 29-30) is desirable to allow the natural gum rubber band to sit on the user's body without rolling or slipping during stretching, whereas the substantially round profile of the elastomeric tubing taught by Mason is inherently prone to rolling or slipping. Consequently, the Applicant respectfully submits that Mason does not completely describe the features recited in claim 22 and cannot anticipate the invention of claim 22. Thus, Applicant

respectfully submits that claim 22 is in compliance with 35 U.S.C. §102.

The Examiner has rejected dependent claims 31-36, which depend from claim 22, as being anticipated by Mason. Applicant respectfully submits that claims 31-36 should be allowable under 35 U.S.C. §102 due to their dependence on claim 22, which has been shown above to be in compliance with 35 U.S.C. §102, and due to the additional subject matter recited therein. Thus, Applicant respectfully requests the rejection of claims 31-36 be withdrawn.

**Conclusion**

Applicant respectfully submits that this application as amended above is now in condition for allowance and requests timely allowance thereof.

Respectfully Submitted,

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